



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

In Re: 34771665

Date: OCT. 29, 2024

Appeal of Nebraska Service Center Decision

Form I-140, Immigrant Petition for Alien Workers (Extraordinary Ability)

The Petitioner seeks classification as an individual of extraordinary ability in the sciences. *See* Immigration and Nationality Act (the Act) section 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). This first preference classification makes immigrant visas available to those who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in their field through extensive documentation.

The Director of the Nebraska Service Center denied the petition, concluding that although the Petitioner satisfied at least three of the initial evidentiary criteria, as required, he did not show his sustained national or international acclaim and demonstrate he is among the small percentage at the very top of the field of endeavor. The matter is now before us on appeal.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will dismiss the appeal.

I. LAW

Section 203(b)(1)(A) of the Act makes immigrant visas available to individuals with extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation, provided that the individual seeks to enter the United States to continue work in the area of extraordinary ability, and the individual's entry into the United States will substantially benefit prospectively the United States.

The term "extraordinary ability" refers only to those individuals in "that small percentage who have risen to the very top of the field of endeavor." 8 C.F.R. § 204.5(h)(2). The implementing regulation at 8 C.F.R. § 204.5(h)(3) sets forth a multi-part analysis. First, a petitioner can demonstrate sustained acclaim and the recognition of achievements in the field through a one-time achievement (that is, a major, internationally recognized award) or qualifying documentation that meets at least three of the

ten categories listed at 8 C.F.R. § 204.5(h)(3)(i) – (x) (including items such as awards, published material in certain media, and scholarly articles).

Where a petitioner meets these initial evidence requirements, we then consider the totality of the material provided in a final merits determination and assess whether the record shows sustained national or international acclaim and demonstrates that the individual is among the small percentage at the very top of the field of endeavor. *See Kazarian v. USCIS*, 596 F.3d 1115 (9th Cir. 2010) (discussing a two-part review where the documentation is first counted and then, if fulfilling the required number of criteria, considered in the context of a final merits determination); *see also Visinscaia v. Beers*, 4 F. Supp. 3d 126, 131-32 (D.D.C. 2013); *Rijal v. USCIS*, 772 F. Supp. 2d 1339 (W.D. Wash. 2011).

II. ANALYSIS

A. Evidentiary Criteria

Because the Petitioner has not claimed or established he received a major, internationally recognized award, he must satisfy at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x). The Director determined the Petitioner met three of the claimed evidentiary criteria relating to judging at 8 C.F.R. § 204.5(h)(3)(iv), original contributions of major significance at 8 C.F.R. § 204.5(h)(3)(v), and authorship of scholarly articles at 8 C.F.R. § 204.5(h)(3)(vi).¹ However, the Director concluded the Petitioner did not show he garnered sustained national or international acclaim and his achievements have been recognized in the field of expertise, demonstrating he is one of that small percentage who has risen to the very top of the field.

B. Final Merits Determination

As indicated above, we will evaluate whether the Petitioner has demonstrated, by a preponderance of the evidence, his sustained national or international acclaim,² he is one of the small percentage at the very top of the field of endeavor, and his achievements have been recognized in the field through extensive documentation. In a final merits determination, we analyze an individual's accomplishments and weigh the totality of the evidence to determine if his successes are sufficient to demonstrate that he has extraordinary ability in the field of endeavor.³ *See* section 203(b)(1)(A)(i) of

¹ The Director's decision simply indicates the Petitioner's satisfaction of these three criteria without explaining his determination. Although the record shows the Petitioner's experience in peer reviewing a journal article and authoring scholarly articles in professional publications, thereby meeting the judging and scholarly articles criteria, the record does not reflect his achievement of making original contributions of major significance in the field. Again, the Director did not explain, including identifying the evidence, which original contributions the Petitioner made and how he determined them to be majorly significant. While we do not concur with the Director that the Petitioner fulfilled at least three criteria, we will evaluate the totality of the evidence since the Director conducted a final merits determination, including the documentation relating to the original contributions of major significance criterion.

² *See* 6 *USCIS Policy Manual* F.2(A)(1), <https://www.uscis.gov/policymanual> (stating that such acclaim must be maintained and providing *Black's Law Dictionary's* definition of "sustain" is "to support or maintain, especially over a long period of time . . . To persist in making (an effort) over a long period of time").

³ *See* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(2) (instructing that USCIS officers should consider the petition in its entirety to determine eligibility according to the standard – sustained national or international acclaim and the achievements

the Act; 8 C.F.R. § 204.5(h)(2), (3); *see also Kazarian*, 596 F.3d at 1119-20. In this matter, we agree with the Director that the Petitioner has not established his eligibility.⁴

On appeal, the Petitioner argues that his “publication and citation record show that he has extraordinary ability in the field of astrophysics and he is one of the small percentage of scientists who have risen to the top of their field.” He contends that the Director did not properly evaluate evidence in the record, and that this evidence establishes that he qualifies under this immigrant visa classification’s high standards. The Petitioner states that the Director did not properly analyze his peer review service, research contributions, co-authorship of scientific articles, citation evidence, letters of support, and sustained acclaim in astrophysics. Below, we will evaluate the totality of the evidence based on the documentation presented to the Director in the context of the final merits determination.⁵

On the Form I-140, Immigrant Petition for Alien Workers, the Petitioner provided the following information:

Part 5 - Additional Information About the Petitioner

Section 11. Occupation: Astrophysicist

Part 6 - Basic Information About the Proposed Employment

Section 1. Job Title: Data Scientist

Section 3. Nontechnical Description of Job: Collect and analyze data to elucidate the properties and evolution of stellar clusters in the Milky Way and local group galaxies to explain the mechanisms behind galaxy formation and evolution.

As it relates to the Petitioner’s background, according to the initial cover letter:

[The Petitioner] is an established expert in astrophysics, and within this broader field, he is one of the few leading specialists in the star formation history of the Milky Way and the Local Group, chemical evolution of stellar clusters, and cluster ensemble photometry. [The Petitioner] has achieved a consistent and notable record of success and influence in this area of study and is especially well-known for his investigation of the enhancement of stellar chemical abundance measurements. Furthermore, [the Petitioner’s] work has received funding from prestigious organizations, including the Alfred P. Sloan Foundation, the Crafoord Foundation, the Office of Science, the National Science Foundation (NSF), the Olle Engkvist Foundation, the Research

have been recognized in the field of expertise, indicating that the person is one of that small percentage who has risen to the very top of the field of endeavor).

⁴ In the final merits analysis, the Director’s decision discussed the documentation relating to the Petitioner’s peer review activity, published work, citation evidence, graduate student research position at [] and letters of support commenting on his astrophysics research, and explained why that evidence, as part of the entirety of the record, was insufficient to demonstrate the Petitioner’s sustained national or international acclaim and that he is one of that small percentage who has risen to the very top of the field.

⁵ *See 6 USCIS Policy Manual, supra*, at F.2(B)(2).

Corporation for Science Advancement (RCSA), the National Aeronautics and Space Administration (NASA), and the Heising-Simmons Foundation.

The record indicates that the Petitioner earned both a Master of Science degree (2020) and a Ph.D. (2021) in Physics from [REDACTED]. He served as a graduate researcher at [REDACTED] under the supervision of Dr. [REDACTED] from August 2016 until August 2021. The Petitioner has been employed at [REDACTED] as a data scientist since graduating from [REDACTED] in August 2021.⁶

As discussed further below, the Petitioner has performed astrophysics research as a graduate student at [REDACTED] coauthored several research articles that have been widely cited, and peer reviewed one article for *Monthly Notices of the Royal Astronomical Society*. However, in considering the totality of the evidence, the Petitioner has not demonstrated that his achievements are reflective of a “career of acclaimed work in the field” as contemplated by Congress. H.R. Rep. No. 101-723, 59 (Sept. 19, 1990). Nor has the Petitioner shown that he has sustained acclaim as astrophysics researcher after his graduation from [REDACTED] in August 2021.⁷ Furthermore, the Petitioner has not established that he has risen to that small percentage at the very top of the field of endeavor and garnered national or international acclaim. See 8 C.F.R. § 204.5(h)(2), (3). The commentary for the proposed regulations implementing section 203(b)(1)(A)(i) of the Act provides that the “intent of Congress that a very high standard be set for aliens of extraordinary ability is reflected in this regulation by requiring the petitioner to present more extensive documentation than that required” for lesser classifications. 56 Fed. Reg. 30703, 30704 (July 5, 1991). Here, the Petitioner has not sufficiently documented a career that meets these very high standards.

Regarding the Petitioner’s service as a judge of the work of others, an evaluation of the significance of his experience is appropriate to determine if such evidence indicates the required extraordinary ability for this highly restrictive classification. See *Kazarian*, 596 F. 3d at 1121-22. The Petitioner provided one instance of his judging experience - a paper review for *Monthly Notices of the Royal Astronomical Society* in 2023.⁸ Here, the Petitioner has not established that this single instance of peer review work contributes to a finding that he has a career of acclaimed work in the field or indicative of the required sustained national or international acclaim. See H.R. Rep. No. 101-723 at 59 and section 203(b)(1)(A) of the Act.

With the appeal, the Petitioner provides information from Oxford Academic regarding the editorial review process for *Monthly Notices of the Royal Astronomical Society*. This information states:

⁶ The Petitioner describes his work at [REDACTED] as follows: “I build, maintain, and improve key decision systems and predictive models that are key to [REDACTED] competitive advantage. I explore new data sources, both internal and external to [REDACTED] to improve and optimize model performance. Additionally, I read, research, design, and implement novel machine learning algorithms, technologies, and processes to better serve the customer and stay ahead of the competition.”

⁷ See 6 *USCIS Policy Manual*, *supra*, at F.2(A)(1) (instructing that USCIS officers should determine if “the person continues to maintain a comparable level of acclaim in the field of expertise since the person was originally afforded that recognition. A person may, for example, have achieved national or international acclaim in the past but then failed to maintain a comparable level of acclaim thereafter.”). The Petitioner has not demonstrated that his position with a leasing company since August 2021 is consistent with him having sustained acclaim in the field of astrophysics.

⁸ In many scientific and academic fields, peer review is a routine part of the process through which articles are selected for publication or presentation at conferences. Participation in the peer review process does not automatically demonstrate national or international acclaim or place an individual at the very top of their field.

Manuscripts submitted MNRAS undergo editorial review by the Royal Astronomical Society, via a process of scholarly peer review. Each paper is assessed by a Scientific Editor (a member of the editorial board), who in most cases will solicit the opinion of two or more expert reviewers (also called referees). Reviewers critically examine the content of the paper and make recommendations on its suitability for publication. The Scientific Editor will then decide whether or not to endorse the reviewer's recommendations, and may request revisions or accept or reject the paper.

Although the Petitioner's role as a reviewer involved making "recommendations" on the paper's suitability for publication, it is the Scientific Editor, a member of the journal's editorial board, who decides whether to endorse a reviewer's recommendations and who therefore ultimately determines if a paper is accepted or rejected. At issue here is the extent to which the Petitioner's review activity is commensurate with sustained national or international acclaim or a level of expertise placing him among the small percentage at the very top of the field of endeavor. Here, the Petitioner did not present documentation indicating *Monthly Notices of the Royal Astronomical Society's* specific requirements for selection of peer reviewers. For instance, reviewing manuscripts for a journal that selects its reviewers based on subject matter expertise would not provide strong support for the petition, because possessing expertise in a given field is a considerably lower threshold than having sustained national or international acclaim at the very top of the field.

While the record indicates that the Petitioner has reviewed one paper for *Monthly Notices of the Royal Astronomical Society*, he has not demonstrated, for example, how his limited experience in reviewing the works of others compares to others at the very top of the field. In addition, the Petitioner did not establish, for instance, that he garnered wide attention from the field based on his peer review work. Moreover, serving as a peer reviewer does not automatically demonstrate that an individual has extraordinary ability and sustained national or international acclaim at the very top of his field. *Matter of Price*, 20 I&N Dec. 953, 954 (Assoc. Comm'r 1994) (stating that even athletes performing at the major league level do not automatically meet the "extraordinary ability" standard). Without evidence that differentiates the Petitioner from others in his field, such as evidence that he has a consistent history of reviewing or judging recognized, acclaimed experts in his field, he has not shown that his narrow judging experience places him among that small percentage who has risen to the very top of the field of endeavor.⁹ See 8 C.F.R. § 204.5(h)(2) and 56 Fed. Reg. at 30704.

Likewise, authorship and publication do not automatically place an individual at the top of their field. The Petitioner indicated that he has published "his work in 7 peer reviewed journal articles (1 of them first-authored) and 1 abstract," including *The Astrophysical Journal Supplement Series*, *The Astronomical Journal*, and *The Astrophysical Journal*.¹⁰ However, the Petitioner did not demonstrate

⁹ For example, the record does not include documentation that sets the Petitioner apart from others in the field, such as evidence that he has completed reviews for a substantial number of distinguished journals or conferences relative to others in his field, served in editorial positions for highly regarded journals or publications, or chaired prominent evaluation committees for reputable scientific conferences.

¹⁰ The Petitioner presented rankings information for these journals from Google Scholar Metrics and journal impact factor data from IOPscience. A high journal ranking or impact factor is reflective of a publication's overall citation rate. It does not, however, show the influence of any particular author or demonstrate how an individual's research has affected their field.

that his publication record is consistent with having a career of acclaimed work, sustaining national or international acclaim, and being among the small percentage at the very top of his field. *See* H.R. Rep. No. at 59, section 203(b)(1)(A) of the Act, and 8 C.F.R. § 204.5(h)(2). The Petitioner, for instance, did not show the significance of his authorships or how his publication record compares to other individuals who are viewed to be at the very top of the field.¹¹

Moreover, the citation history or other evidence of the influence of written work can be an indicator to determine the impact and recognition that the Petitioner's publications have had on the field and whether such influence has been sustained. Such an analysis at the final merits determination stage is appropriate pursuant to *Kazarian*, 596 F. 3d at 1122. In response to the Director's request for evidence, the Petitioner submitted his Google Scholar profile which lists his research articles and indicates that they had received 2,159 cumulative citations. This Google Scholar information indicated that his articles, entitled [REDACTED]

[REDACTED] (2020), [REDACTED]
[REDACTED]
[REDACTED] (2022), [REDACTED]
[REDACTED] (2020), [REDACTED]
[REDACTED] (2020), [REDACTED]
[REDACTED]
[REDACTED] (2021), and [REDACTED]

[REDACTED] (2020), each received 1235, 501, 387, 26, 9, and 1 citation(s), respectively. None of his remaining articles, including his abstract from the [REDACTED] Meeting, have received any citations.

In the decision denying the petition, the Director stated that “of the six articles listed that have received citations, none have fewer than thirteen listed authors, and the two most cited articles list well over one-hundred authors and account for over eighty percent of all citations in the record.” The Director further noted that “the third most cited article lists the Petitioner as twenty-second of twenty-three authors and accounts for over seventeen percent of all citations in the record.” We agree with the Director's conclusion that the record lacks evidence showing that the Petitioner has enjoyed sustained national or international claim as a result his level of contribution to these articles.¹² The Petitioner has not shown that his specific contribution to these articles as one of numerous coauthors has attracted a level of interest in the field indicative of him earning national or international acclaim. *See* section 203(b)(1)(A) of the Act. In addition, the Petitioner has not established that his role as a coauthor has garnered him attention at a level consistent with being among that small percentage at the very top of his field. *See* 8 C.F.R. § 204.5(h)(2) and 56 Fed. Reg. at 30704.

¹¹ *See* 6 USCIS Policy Manual, *supra*, at F.2(B)(2) (providing examples where evidence in the record may help in determining “whether in a totality analysis that considers all of the evidence, the person is among the small percentage at the top of the field and has sustained national or international acclaim”).

¹² The fourth most cited article (26 citations), entitled [REDACTED] was first authored by the Petitioner. *See* 6 USCIS Policy Manual, *supra*, at F.2(B)(2) (indicating that there may be particular prestige or acclaim associated with publication in highly ranked journals, “especially if the person is the most significant contributor to the published article, a senior author, or the sole author of the article.” Here, the Petitioner has not shown that his specific contribution to any of the three most-cited articles he coauthored was particularly significant.

Similarly, the Petitioner did not show that his presented material at the [redacted] Meeting (2022) garnered him any national or international acclaim in the field.¹³ See section 203(b)(1)(A) of the Act. Moreover, the Petitioner did not demonstrate the significance of his presentation or how it impacted the field consistent with a very high standard requiring the petitioner to submit more extensive documentation than that required for lesser classifications. See 56 Fed. Reg. at 30704.

The Petitioner also provided data from Clarivate Analytics (InCites Essential Science Indicators) regarding baseline citation rates and percentiles by year of publication for the space science field. The Petitioner contends that three of his “published papers have received enough citations to rank among the top 0.1% of the most-cited papers in space science in their respective years of publication,” but based on their large number of coauthors, he has not shown that his specific contribution to any of the three most-cited articles he coauthored was particularly significant. Additionally, the Petitioner presented an article in *Scientometrics* written by Lutz Bornmann and Werner Marx, entitled “How to evaluate individual researchers working in the natural and life sciences meaningfully? A proposal of methods based on percentiles of citations.” This article presents recommendations for “how to evaluate individual researchers in the natural and life sciences” for purposes of funding and promotion or hiring decisions. The authors state that “publications which are among the 10% most cited publications in their subject area are as a rule called highly cited or excellent” and that “the top 10% based excellence indicator” should be given “the highest weight when comparing the scientific performance of single researchers.” While the authors offer proposed methods for bibliometric analysis of research performance, the record does not indicate that their methods have been accepted and implemented by the academic community. Moreover, with respect to citation information from Google Scholar, the authors advise against “using Google Scholar (GS) as a basis for bibliometric analysis. Several studies have pointed out that GS has numerous deficiencies for research evaluation.”

Additionally, the Petitioner submitted examples of some of the research articles, including international articles, which cited to his work. For instance, an article authored by [redacted] et. al., entitled [redacted] cites to the

Petitioner and Dr. [redacted] paper, entitled [redacted]
[redacted] The article’s author identified the Petitioner and Dr. [redacted] paper, stating: [redacted]
[redacted] This

article does not distinguish or highlight the Petitioner’s work from the more than 80 other papers referenced in the article or otherwise demonstrate that his work places him among that small percentage at the very top of his field. See 8 C.F.R. § 204.5(h)(2). The Petitioner has not established how citations of this kind translate into national or international acclaim. Additional research article examples presented by the Petitioner generally discuss the cited source articles in similar terms and there is no special emphasis on his specific work. The submitted articles acknowledge he and his coauthors contributions to the advancement of what appears to be an active field of research but are not indications that the Petitioner has sustained national or international acclaim at the very top of his field.

The research articles coauthored by the Petitioner indicate in their acknowledgements section that the authors received support from organizations such as the Alfred P. Sloan Foundation, the Crafoord

¹³ This presentation was coauthored with Dr. [redacted] and five others and has not received any citations.

Foundation, the Office of Science, the National Science Foundation (NSF), the Olle Engkvist Foundation, the Research Corporation for Science Advancement (RCSA), the National Aeronautics and Space Administration (NASA), and the Heising-Simmons Foundation. We note that scientific research projects are typically supported by grants from a variety of public and private sources. The past achievements of the principal investigator are a factor in grant proposals because the funding institution must be assured that the investigator is capable of performing the proposed research. Here, the Petitioner has not provided copies of the research grants from the aforementioned organizations listing him as a principal investigator or otherwise identifying his role. Regardless, he has not shown that his participation in these research projects as a graduate student signifies sustained national or international acclaim at the very top of his field.

In addition, the Petitioner provided several recommendation letters that summarized his work.¹⁴ For example, regarding his work at [] Dr. [] the Petitioner's Ph.D. supervisor and an associate professor at [] stated that he "has helped uncover the information encoded in integrated light from star clusters in the Milky Way and neighboring galaxies." Dr. [] further asserted that the Petitioner's research is "paving the way to publish a catalog of light curves for 348 stellar clusters in these galaxies," but she did not provide specific examples indicating that his specific work is majorly significant in the field or has otherwise risen to the level of a contribution that is nationally or internationally acclaimed.

Dr. [], an assistant professor at the [] indicated that the Petitioner's work "shed light on the varying chemical abundances of stars in the APOGEE survey and enhance the reliability of its data, providing fellow researchers in the field with more reliable information for their research," but the Petitioner has not demonstrated that his specific work has affected the field in a substantial way that is indicative of national or international acclaim at the very top of field of astrophysics. We recognize that research must add information to the pool of knowledge in some way in order to be accepted for publication, presentation, funding, or academic credit, but not every research finding that broadens knowledge in a particular field renders an individual's work nationally or internationally acclaimed.

In addition, Dr. [] Professor of Astronomy at [] and coauthor of multiple papers with the Petitioner, asserted that the Petitioner's work helped to improve the APOGEE survey data "uncertainty estimation approach and expand it to the entire 16th data release. The resulting approach is utilized throughout the three articles as a key method for cleaning, validating, and ensuring the reliability of the data." Dr. [] further indicated that the Petitioner's "efforts have helped to ensure simpler, broader access to this valuable astronomical data." While we acknowledge that Petitioner's work has been used by others and has affected his field to some extent, he has not shown that his specific methods and findings rise to the level of contributions of major significance in the astrophysics field or have otherwise affected the field at a level commensurate with national or international acclaim at the very top of the field.

The recommendation letters offered by the Petitioner do not contain sufficient information and explanation, nor does the record include adequate corroborating evidence, to show that he is viewed by the overall field, rather than by a solicited few, as being among that small percentage at the very

¹⁴ While we discuss a sampling of the letters of support, we have reviewed and considered each one.

top of the field of endeavor. *See* 8 C.F.R. § 204.5(h)(2). Further, the Petitioner has not established that he has made impactful or influential contributions in the greater field reflecting a career of acclaimed work in the field, garnering the required sustained national or international acclaim. *See* H.R. Rep. No. at 59 and section 203(b)(1)(A) of the Act. The letters describe the Petitioner's work without showing how it has resulted in widespread acclaim from his field, that he drew significant attention from the greater field, or that the overall field considers him to be at the very top of the field of endeavor. *See* 8 C.F.R. § 204.5(h)(2) and 56 Fed. Reg. at 30704.

The record as a whole, including the evidence discussed above, does not establish the Petitioner's eligibility for the benefit sought. Here, the Petitioner seeks a highly restrictive visa classification, intended for individuals already at the top of their respective fields, rather than those progressing toward the top. *Price*, 20 I&N Dec. at 954 (concluding that even major league level athletes do not automatically meet the statutory standards for classification as an individual of "extraordinary ability,"); *Visinscaia*, 4 F. Supp. 3d at 131 (internal quotation marks omitted) (finding that the extraordinary ability designation is "extremely restrictive by design,"); *Hamal v. Dep't of Homeland Sec. (Hamal II)*, No. 19-cv-2534, 2021 WL 2338316, at *5 (D.D.C. June 8, 2021), *aff'd*, 2023 WL 1156801 (D.C. Cir. Jan. 31, 2023) (determining that EB-1 visas are "reserved for a very small percentage of prospective immigrants"). *See also Hamal v. Dep't of Homeland Sec. (Hamal I)*, No. 19-cv-2534, 2020 WL 2934954, at *1 (D.D.C. June 3, 2020) (citing *Kazarian*, 596 at 1122 (upholding denial of petition of a published theoretical physicist specializing in non-Einsteinian theories of gravitation) (stating that "[c]ourts have found that even highly accomplished individuals fail to win this designation")); *Lee v. Ziglar*, 237 F. Supp. 2d 914, 918 (N.D. Ill. 2002) (finding that "arguably one of the most famous baseball players in Korean history" did not qualify for visa as a baseball coach).

After consideration of the totality of the evidence, including the Petitioner's published research, citation record, peer review service, and research funding, as well as the opinions of his colleagues in the field, we conclude that this documentation does not sufficiently establish his sustained national or international acclaim or show that he is among that small percentage who has risen to the very top of the field of endeavor. Nor does the Petitioner's evidence demonstrate that he has sustained acclaim in the field of astrophysics since his graduation from [] in August 2021.¹⁵ The Petitioner has not shown the significance of his work is indicative of the required sustained national or international acclaim or it is consistent with a "career of acclaimed work in the field" as contemplated by Congress. *See* H.R. Rep. No. at 59; *see also* section 203(b)(1)(A) of the Act. While the Petitioner need not establish that there is no one more accomplished to qualify for the classification sought, the record is insufficient to demonstrate that he is among the small percentage at the top of his field. *See* 8 C.F.R. § 204.5(h)(2).

III. CONCLUSION

For the reasons discussed above, the Petitioner has not demonstrated his eligibility as an individual of extraordinary ability. The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternate basis for the decision.

¹⁵ The Petitioner has not demonstrated that his position with a leasing company since August 2021 is consistent with having maintained his acclaim in the field of astrophysics.

ORDER: The appeal is dismissed.